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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 HAL HUBUSCHMAN, Derivatively on) Case No. 3:12-cv-03366-MMC
19 Behalf of FACEBOOK, INC.,)
20 Plaintiff,) STIPULATION AND [PROPOSED] ORDER
21) REGARDING HEARING DATES
22 v.)
23) Judge: Honorable Maxine M. Chesney
24)
25 MARK ZUCKERBERG, DAVID A.)
EBERSMAN, SHERYL K. SANDBERG,)
DAVID M. SPILLANE, PETER A. THIEL,)
JAMES W. BREYER, MARC L.)
ANDREESSEN, DONALD E. GRAHAM,)
REED HASTINGS, ERSKINE B.)
BOWLES, and DOES 1-25, Inclusive,)
Defendants,)
-and-)
FACEBOOK, INC., a Delaware corporation,)
Nominal Defendant.)

1 WHEREAS the *Hubuschman* Action¹ was originally filed in the Superior Court of
2 California, San Mateo County (the "State Court") on June 28, 2012, and the *Cole* Action² was
3 originally filed in the State Court on May 31, 2012 (collectively, the "Derivative Actions");

4 WHEREAS on June 28, 2012, Defendants³ removed the Derivative Actions to this Court;

5 WHEREAS on July 13, 2012, Defendants filed Motions for Stay of Proceedings Pending
6 Decision on Transfer by the Judicial Panel on Multidistrict Litigation (the "Stay Motions") in the
7 Derivative Actions, and the hearings on the Stay Motions are set for August 17, 2012, at 9:00
8 a.m.;

9 WHEREAS plaintiffs Hal Hubuschman and William Cole ("Plaintiffs") believe that
10 removal of the Derivative Actions was improper and will timely file motions to remand the
11 Derivative Actions to State Court (the "Remand Motions") on or before August 1, 2012, in
12 accordance with 28 U.S.C. §1447(c);
13

14 WHEREAS Plaintiffs intend to notice the Remand Motions for a September 7, 2012
15 hearing date;
16

17 WHEREAS in light of the above, the parties shortly will agree to briefing schedules for
18 the Stay Motions and the Remand Motions which they will submit to the Court.
19

20 WHEREAS the parties to the Derivative Actions have not previously requested an
21 extension of any deadlines to file briefs in opposition to or in support of the Stay Motions;
22

23 ¹ "Hubuschman Action" refers to the action captioned *Hubuschman v. Zuckerberg*, et al., Case
24 No. 12-cv-03366-MMC.
25

26 ² "Cole Action" refers to the action captioned *Cole v. Zuckerberg*, et al., Case No. 12-cv-03367-
27 MMC.
28

29 ³ "Defendants" refers to: Nominal defendant Facebook, Inc., Mark Zuckerberg, David A.
30 Ebersman, Sheryl K. Sandberg, David M. Spillane, Peter A. Thiel, James W. Breyer, Marc L.
31 Andreessen, Donald E. Graham, Reed Hastings, and Erskine B. Bowles.
32

WHEREAS nothing in this stipulation prevents any party from seeking further extensions on the consent of the other parties or from the Court;

WHEREAS in light of the agreement to re-notice the hearing on the Stay Motions, Plaintiffs' obligation to file oppositions to the Stay Motions, otherwise due on July 27, 2012, is held in abeyance until the parties submit their agreed briefing schedule; and

WHEREAS in the event that the Court determines not to enter an order consistent with this stipulation, Defendants agree that, in view of Plaintiffs' reliance on this stipulation and proposed order, Defendants shall not assert in any motion, brief, or proceeding that Plaintiffs failed timely to file their briefs in opposition to the Stay Motions. In that event, the parties to the Derivative Actions shall meet and confer regarding an alternative scheduling stipulation consistent with the Court's determination.

Respectfully submitted,

Dated: July 26, 2012

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1 Dated: July 26, 2012

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21 *Counsel for Mark Zuckerberg, David A.*
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Hastings, Erskine B. Bowles and Facebook,
Inc.

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23
24
25 *I, Shane P. Sanders, am the ECF user whose ID and password are being used to file this*
STIPULATION AND [PROPOSED] ORDER REGARDING HEARING DATES. In compliance
with General Order 45, X.B., I hereby attest that James F. Basile has concurred in this filing.

* * * ORDER * * *

PURSUANT TO STIPULATION, IT IS SO ORDERED. Plaintiff need not file an opposition to defendants' pending Motion for Stay until the date set pursuant to further court order adopting a revised briefing schedule.

July 27, 2012

DATED

Maxine M. Chesney
HONORABLE MAXINE M. CHESNEY
U.S. DISTRICT JUDGE